

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF PUERTO RICO**

IN RE:

AUGUSTO'S CUISINE
CORPORATION,

Debtor

Bankruptcy No.: 15-09390 (ESL)

Chapter 11

**JOINT MOTION AS TO THE CONSENSUAL TREATMENT OF
TREASURY'S CLAIMS UNDER THE PLAN**

TO THE HONORABLE ENRIQUE S. LAMOUTTE INCLAN,
UNITED STATES BANKRUPTCY JUDGE:

COMES NOW Augusto's Cuisine Corporation (the "Debtor") and the Department of the Treasury of the Commonwealth of Puerto Rico ("Treasury"), each through its undersigned counsel, and submit this Joint Motion as to Treasury's Treatment Under the Plan (the "Joint Motion").

1. On February 9, 2016, the Debtor filed an "Urgent Motion to: (a) Approve Post-Petition Financing; and (b) Approve a Settlement Agreement with Treasury" (the "Motion to Approve Settlement", or Docket No. 44).

2. The Motion to Approve Settlement requested that the Court approve a certain settlement agreement between, among others, the Debtor and Treasury (the "Settlement Agreement"). See Exhibit B to the Motion to Approve Settlement.

3. The Settlement Agreement was also approved by a final order of this Court (the "Order"). See Docket No. 51.

4. On May 27, 2016, Treasury filed Proof of Claim No. 14 and Proof of Claim No. 15 (hereinafter, the "Claims"). Both Claims are detailed as follows:

a. Proof of Claim No. 14 in the total amount of \$1,166,198.52 of which \$954,019.99 is claimed as priority regarding taxes incurred by the Debtor on account of Income Taxes, Employee Withholding Taxes, Excise Taxes, and 7% Professional Service Taxes. See Proof of Claim No. 14

b. Proof of Claim No. 15 in the total amount of \$502,888.41 of which \$150,182.90 is claimed as priority on account of sales and use taxes. See Proof of Claim No. 15

5. On July 8, 2016, the Debtor filed an amended plan (the “Plan”). Docket No. 116.

6. On August 12, 2017, the Debtor filed an objection (the “Claim Objection”) to Treasury’s Proof of Claim Nos. 14 and 15 (collectively, the “Objections”).

7. Thereafter, the Debtor and Treasury entered into discussions to resolve the Claim Objection and agree on a consensual treatment of the Claims under the Plan.

8. Accordingly, the Debtor and Treasury have agreed to the following treatment for the Claims under the Plan:

- Priority Claim. Treasury shall have an allowed priority claim under the Plan in the amount of \$64,000 (the “Priority Claim”). The Priority Claim shall be paid, solely by the Debtor under the Plan, in sixty (60) equal monthly installments of \$1,066.66 each, plus the statutory interest rate of 4% per annum for a total monthly payment of \$1,178.66 (the “Monthly Priority Payments”). The Monthly Priority Payments shall commence under the Plan on the later of the Effective Date (as such term is defined in the Plan) or January 1, 2017 and shall continue thereafter on or before the first day of each month.

- General Unsecured Claim. According to the Claims filed by Treasury, the total unsecured claim amounts to \$564,884.04. However, pursuant to this “Joint Motion”, Treasury agrees to receive the total amount of \$11,016.97 to be paid in sixty (60) equal monthly installments of \$183.062 as a general unsecured claim under the Plan under the treatment proposed therein to general unsecured creditors.
- Post-Petition and Post-Confirmation Obligations. The Debtor shall continue to satisfy all post-petition and post-confirmation obligations to Treasury including submitting the sales and use taxes collected on or before the 20th day of each month. Failure to comply with its post-petition and/or post-confirmation obligations, will be considered as an “Event of Default” under this Joint Motion.
- Events of Default and Cure Period. In the event that there is any default under the terms of this Joint Motion, including any failure to comply with post-petition and/or post-confirmation obligations, the Debtor shall have a period of 90 days to cure any such default. In the event that the Debtor fails to cure such default within the aforementioned cure period, then Treasury shall be entitled to continue the audit for the years 2012, 2013, and 2014 and assert solely against the Debtor all of the amounts asserted under the Claims.
- The Plan. The terms of this Joint Motion shall be incorporated into the Amended Plan of Reorganization filed at Docket No. 116, and Treasury agrees to vote in favor of the Plan as supplemented herein.
- Claim Objection. Upon approval of this Joint Motion, the Claim Objection shall be withdrawn.

- * Settlement Agreement. This Joint Motion alters only the treatment of the Claims under the Plan and does not alter, modify, or amend the Settlement Agreement or any of the releases and obligations of any of the parties contained therein.

WHEREFORE, the Debtor and respectfully requests that this Honorable Court enter an order granting the relief requested herein deeming Debtor's Plan of Reorganization and Treasury's Proof of Claim Nos. 14 and 15 amended as aforementioned, and such other and further relief as is just.

RESPECTFULLY SUBMITTED.

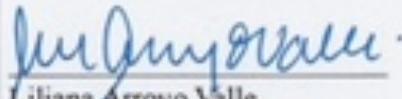
In San Juan, Puerto Rico, this 12th day of October, 2016.

I hereby certify that on this same date, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to all CM/ECF participants in this case.

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